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**Introduced by Senator McPherson**

February 23, 2001

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An act to amend Section 11357 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 791, as introduced, McPherson. Marijuana: possession: penalty.

Existing law provides, that except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and punishable by a fine of not more than \$100.

This bill would instead make the possession of not more than 28.5 grams of marijuana, other than concentrated cannabis, an infraction.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11357 of the Health and Safety Code is  
2 amended to read:

3 11357. (a) Except as authorized by law, every person who  
4 possesses any concentrated cannabis shall be punished by  
5 imprisonment in the county jail for a period of not more than one  
6 year or by a fine of not more than five hundred dollars (\$500), or  
7 by both such fine and imprisonment, or shall be punished by  
8 imprisonment in the state prison.

9 (b) Except as authorized by law, every person who possesses  
10 not more than 28.5 grams of marijuana, other than concentrated

1 cannabis, is guilty of a ~~misdemeanor~~ *an infraction* and shall be  
2 punished by a fine of not more than one hundred dollars (\$100).  
3 Notwithstanding other provisions of law, if ~~such~~ *that* person has  
4 been previously convicted three or more times of an offense  
5 described in this subdivision during the two-year period  
6 immediately preceding the date of commission of the violation to  
7 be charged, the previous convictions shall also be charged in the  
8 accusatory pleading and, if found to be true by the jury upon a jury  
9 trial or by the court upon a court trial or if admitted by the person,  
10 the provisions of Sections 1000.1 and 1000.2 of the Penal Code  
11 shall be applicable to him *or her*, and the court shall divert and  
12 refer him *or her* for education, treatment, or rehabilitation, without  
13 a court hearing or determination or the concurrence of the district  
14 attorney, to an appropriate community program which will accept  
15 him *or her*. If the person is so diverted and referred he *or she* shall  
16 not be subject to the fine specified in this subdivision. If no  
17 community program will accept him *or her*, the person shall be  
18 subject to the fine specified in this subdivision. In any case in  
19 which a person is arrested for a violation of this subdivision and  
20 does not demand to be taken before a magistrate, ~~such~~ *the* person  
21 shall be released by the arresting officer upon presentation of  
22 satisfactory evidence of identity and giving his *or her* written  
23 promise to appear in court, as provided in Section 853.6 of the  
24 Penal Code, and shall not be subjected to booking.

25 (c) Except as authorized by law, every person who possesses  
26 more than 28.5 grams of marijuana, other than concentrated  
27 cannabis, shall be punished by imprisonment in the county jail for  
28 a period of not more than six months or by a fine of not more than  
29 five hundred dollars (\$500), or by both such fine and  
30 imprisonment.

31 (d) Except as authorized by law, every person 18 years of age  
32 or over who possesses not more than 28.5 grams of marijuana,  
33 other than concentrated cannabis, upon the grounds of, or within,  
34 any school providing instruction in kindergarten or any of grades  
35 1 through 12 during hours the school is open for classes or  
36 school-related programs is guilty of a misdemeanor and shall be  
37 punished by a fine of not more than five hundred dollars (\$500),  
38 or by imprisonment in the county jail for a period of not more than  
39 10 days, or both.



(e) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

